

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SMALL JUSTICE LLC,)
RICHARD A. GOREN,)
and,)
CHRISTIAN DUPONT dba)
ARABIANIGHTS-BOSTON)
MASSACHUSETTS)
)
Plaintiffs,)
)
) CIVIL ACTION NO. 1:13-cv-11701-DJC
v.)
)
XCENTRIC VENTURES LLC,)
Defendant.)

PLAINTIFF CHRISTIAN DUPONT'S RULE 15(b)(2) MOTION TO AMEND .

Pursuant to Fed. R. Civ. P. 15 (b)(2) Plaintiff Christian DuPont moves to amend the First Amended Complaint (Paper 13) to conform the pleadings to the issues fully briefed on an undisputed summary judgment record and to specifically include plaintiff DuPont in the Count I prayer for relief and also to add the following additional or alternative prayers for declaratory relief:

WHEREFORE, RICHARD A. GOREN, SMALL JUSTICE LLC, and CHRISTIAN DUPONT pray for judgment against defendant XCENTRIC VENTURES LLC as follows:

1. Under Count I a declaration that SMALL JUSTICE LLC is the lawful owner of the copyright ownership of each of the January 31, 2012 and February 2, 2012 works;
2. Under Count I in the alternative that the grant by Christian DuPont of a non-exclusive license to each of the January 31, 2012 and February 2, 2012 works to the defendant Xcentric Ventures LLC is unenforceable as contrary to public policy;¹

¹ Acknowledging the principle that there is no need to replead claims that have been dismissed with prejudice in order to preserve them on appeal, the proposed amendment would request two declaratory judgments notwithstanding the Court's dismissal and/or rejection of each.

3. Under Count I in the alternative a declaration that there is no writing signed by Christian DuPont constituting a grant to defendant Xcentric Ventures LLC of an exclusive license to his work and consequently that Christian DuPont is the owner of all the exclusive rights of copyright under the Copyright Act to each of the January 31, 2012 and February 2, 2012 works.

In support plaintiff Christian DuPont incorporates herein plaintiffs' proposed surreply in support of their objection to Xcentric's motion to dismiss its counterclaim against the plaintiff DuPont. (Paper 128-1). The proposed Second Amended Complaint is Exhibit A with changes highlighted in yellow.

WHEREFORE plaintiff Christian DuPont asks the Court to grant him leave to add his name as a party specifically requesting the declaratory relief set forth in Exhibit A.

Respectfully submitted,

CHRISTIAN DUPONT,
Plaintiff,
by his attorney,

July 30, 2015

/s/ Richard A. Goren
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**LOCAL RULE 7.1(A)(2) CERTIFICATION
AND CERTIFICATE OF SERVICE**

I hereby certify that counsel for the plaintiff attempted to confer with defendant's counsel concerning the subject of this motion prior to filing.

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and that paper copies will be sent to those non-registered participants (if any) on July 30, 2015.

/s/ Richard A. Goren